

In re: Hag-ju Cho
Serial No.: 09/893,035
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Claim 1 recites that a first metal oxide layer is formed on a first surface portion of the insulation layer without forming the first metal oxide layer on a second surface portion of the insulation layer. Applicant refers now to the Specification where the text explains that "when an element, such as a layer, region, or substrate, is referred to as being 'on' another element, it can be directly on the other element or intervening elements may also be present." (Specification, page 4, lines 29 - 31). According to Claim 1, the first metal oxide layer is not on the second surface portion of the insulation layer, *i.e.*, the non-exposed surface portion, which means that the first metal oxide layer is not directly on the second surface portion of the insulation layer nor is the first metal oxide layer on the second surface portion of the insulation layer but separated from the second surface portion of the insulation layer by an intervening layer.

The metal oxide 22 shown in the 25706 Publication has portions thereof disposed on an upper surface of the upper electrode 16. While these portions of the metal oxide 22 on the upper surface of the upper electrode 16 are not "directly on" a non-exposed portion of the insulating layer 14, they are nevertheless "on" a non-exposed portion of the insulating layer 14, but separated therefrom by the upper electrode 16. Thus, in sharp contrast with the recitations of Claim 1, the metal oxide 22 shown in the 25706 Publication is on a non-exposed surface portion of the insulating layer 14.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that independent Claim 1 is patentable over the 25706 Publication and Gates, and that dependent Claims 2 - 13 are patentable for at least the reason that they depend from an allowable claim.

In light of the above remarks, Applicant respectfully submits that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

It is not believed that an extension of time and/or additional fee(s), including fees for net addition of claims, are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is